



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[USCG-2014-0708]

RIN 1625-AA87

Security Zone: Martha's Vineyard, Massachusetts

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing two 1000-yard temporary security zones around the President of the United States (POTUS) and/or the first family in conjunction with their visit to Martha's Vineyard, Massachusetts. Vessels and people will be prohibited from entering these security zones during the effective period.

These security zones will be effective from 30 minutes prior to the arrival of the POTUS and/or the first family within 1000 yards of navigable waters of the U.S. in the coastal areas of Chilmark and Edgartown Great Pond, Martha's Vineyard, Massachusetts, until departure of the POTUS and/or the first family from the area. These security zones are needed to safeguard the POTUS and the first family from potential threats or harm. Entry into

these zones by any vessel or person is prohibited unless specifically authorized by the Captain of the Port (COTP) or the COTP's designated on-scene representative.

DATES: This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] until August 24, 2014 at 5:00 p.m. For the purposes of enforcement, actual notice will be used from the date the rule was signed, August 7, 2014, until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2014-0708 and are available online by going to <http://www.regulations.gov>, inserting USCG-2014-0708 in the "Keyword" box, and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Mr. Edward G. LeBlanc at Sector Southeastern New England; telephone (401) 435-2351, e-mail Edward.G.LeBlanc@uscg.mil. If you have

questions on viewing the docket, call Cheryl Collins,
Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

APA	Administrative Procedure Act
CFR	Code of Federal Register
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
POTUS	President of the United States
USC	United States Code
USCG	United States Coast Guard

A. Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because of the sensitive security issues related to the POTUS and first family. Providing a public notice and comment period is contrary to national security concerns and the public interest.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Any delay encountered in this temporary rule's effective date would be contrary to the public interest given the immediate need to ensure the safety and security of the POTUS and first family during their visit to Martha's Vineyard, Massachusetts, from August 08, 2014 through August 24, 2014.

B. Basis and Purpose

The legal basis for this rule is 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1.

The POTUS and first family will visit Martha's Vineyard, Massachusetts, from August 08, 2014 through August 24, 2014. It is expected they will reside and/or participate in activities on property that borders navigable waters within the Captain of the Port, Southeastern New England zone. The U.S. Secret Service has requested that the Coast Guard provide 1000-yard waterside security zones around the POTUS and the first family. These security zones are intended to provide security for

the POTUS and first family by preventing vessels and persons from approaching the location of the POTUS and first family without prior authorization from the U.S. Secret Service.

C. Discussion of Rule

This temporary rule establishes 1000-yard security zones in the navigable waters in the vicinity of the POTUS and first family during their visit to Martha's Vineyard, Massachusetts, from August 08-24, 2014. Vessels and persons will be prohibited from entering these security zones whenever they are enforced due to the presence of the POTUS and/or first family.

This rule is effective from 8:00 a.m. on Friday, August 08, 2014 through 5:00 p.m. on Sunday, August 24, 2014.

This action is intended to temporarily prohibit vessels or people from approaching within 1000 yards of the POTUS and/or first family while they are in or near the navigable waters of the U.S. during their visit to Martha's Vineyard, Massachusetts.

The Captain of the Port, Southeastern New England, anticipates negligible negative impact on vessel traffic from these temporary security zones, as they will be in effect for only sixteen days, and will only be enforced while the POTUS and/or first family are in the vicinity of

the navigable waters of the U.S. at Martha's Vineyard, Massachusetts. It has been determined that the necessary security enhancements provided by this rule greatly outweigh any potential negative impacts.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders relating to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation under the regulatory policies and procedures of DHS is unnecessary. The effect of this rule will not be significant as the duration of the security zones is for only sixteen days, and will only be in effect while the POTUS and/or first family are in the vicinity of the navigable waters of the U.S. at Martha's Vineyard,

Massachusetts.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit in the vicinity of Martha's Vineyard, Massachusetts from 8:00 a.m. on Friday, August 08, 2014 through 5:00 p.m. on Sunday, August 24, 2014. The security zones will not have a significant impact on a substantial number of small entities for the following reasons: The security zones are temporary and effective only while the POTUS and/or first family are in the vicinity of the navigable waters of the U.S. at Martha's Vineyard, Massachusetts. Thus, the temporary nature and

limited effective period of the zones, coupled with the ability of the maritime public to maneuver around the zones, will allow small entities to plan and conduct their business accordingly.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If you think your small business or organization would be affected by this rule and you have any questions concerning its provisions or options for compliance, please call Mr. Edward G. Leblanc at (401) 435-2351.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not

retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects

of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately

affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

13. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant

effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g) of the Instruction. This rule fits the category selected from paragraph (34)(g), as it establishes temporary security zones for a limited period of time. An environmental analysis checklist and a categorical exclusion determination will be available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T01-0708 to read as follows:

§ 165.T01-0708 Security Zone: Martha's Vineyard, Massachusetts.

(a) Location. The following areas are security zones: All navigable waters, from surface to bottom, within 1000 yards of the POTUS and/or first family while underway in, or on shore but within 1000 yards of, the navigable waters of the U.S. in the coastal areas of Chilmark and Edgartown Great Pond, Martha's Vineyard, Massachusetts.

(b) Notification. Coast Guard Sector Southeastern New England will give actual notice to mariners for the purpose of enforcement of these temporary security zones.

(c) Effective and Enforcement Period. This rule is effective for purposes of enforcement from 8:00 a.m. on Friday, August 8, 2014 through 5:00 p.m. on Sunday, August 24, 2014. This rule will be enforced with actual notice during the effective period.

(d) Regulations. (1) The general regulations contained in 33 CFR 165.33 apply.

(2) In accordance with the general regulations in §165.33 of this part, entry into or movement within these zones is prohibited unless authorized by the Captain of the Port or his designated representatives.

(3) The "designated representative" is any Coast Guard commissioned, warrant, or petty officer who has been

designated by the Captain of the Port to act on his behalf. The on-scene representative may be on a Coast Guard vessel, or onboard a federal, state, or local agency vessel that is authorized to act in support of the Coast Guard.

(4) Upon being hailed by a U.S. Coast Guard vessel or his designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

(5) Vessel operators desiring to enter or operate within these security zones shall contact the Captain of the Port or his designated representative via VHF channel 16 to obtain permission to do so.

Dated: August 7, 2014.

J. T. KONDRATOWICZ
Captain, U.S. Coast Guard
Captain of the Port, Southeastern New England

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